

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**CATHERINE PALMER, individually and
on behalf of all others similarly situated;**

Plaintiff,

vs.

KCI USA, INC.,

Defendant.

4:19CV3084

**SECOND AMENDED
CASE PROGRESSION ORDER**

This matter is before the Court following a telephone status conference held with counsel for the parties on June 15, 2020, before Magistrate Judge Michael D. Nelson and on the parties' Joint Motion to Extend Case Progression Order Deadlines ([Filing No. 40](#)). After review of the parties' motion, and in accordance with the matters discussed during the conference, the Court finds good cause to grant the requested extensions. Accordingly,

IT IS ORDERED that the Joint Motion to Extend Case Progression Order Deadlines ([Filing No. 40](#)) is granted, and the amended final progression order is amended as follows:

- 1) The deadlines for identifying expert witnesses and to complete expert disclosures¹ for all experts expected to testify at trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), are:

For the plaintiff:	August 18, 2020
For the defendant:	September 17, 2020
Plaintiff's rebuttal:	September 25, 2020

- 2) The deadline for completing written discovery under Rules 33, 34, 36 and 45 of the Federal Rules of Civil Procedure is **September 18, 2020**. Motions to compel written discovery under Rules 33, 34, 36 and 45 must be filed by **October 2, 2020**.

Note: A motion to compel, to quash, or for a disputed protective order shall not be filed without first contacting the chambers of the undersigned magistrate judge on or before the motion to compel deadline to set a conference to discuss the parties' dispute, and after being granted leave to do so by the Court.

- 3) The deposition deadline, including but not limited to depositions for oral testimony only under Rule 45, is **October 6, 2020**.

¹ While treating medical and mental health care providers are generally not considered "specially retained experts," not all their opinions relate to the care and treatment of a patient. Their opinion testimony is limited to what is stated within their treatment documentation. As to each such expert, any opinions which are not stated within that expert's treatment records and reports must be separately and timely disclosed.

- 4) The deadline for filing motions to exclude testimony on *Daubert* and related grounds is **November 6, 2020**.
- 5) Motion to Certify a Class Action.
 - a. Any motion to certify this case as a class action shall be filed by **November 6, 2020**, in the absence of which any claim in the pleadings that this is a class action shall be deemed abandoned, and the case shall proceed, for purposes of Fed. R. Civ. P. 23, as if a motion for class certification had been filed and denied by the Court.
 - b. Defendant shall file their response to Plaintiff's class certification motion by **November 27, 2020**.
 - c. Plaintiff shall file her reply in support of motion for class certification by **December 4, 2020**.
- 6) The deadline for filing motions to dismiss and motions for summary judgment is **January 12, 2021**.
- 7) The parties shall comply with all other stipulations and agreements recited in their Rule 26(f) planning report that are not inconsistent with this order.
- 8) All requests for changes of deadlines or settings established herein shall be directed to the undersigned magistrate judge. Such requests will not be considered absent a showing of due diligence in the timely progression of this case and the recent development of circumstances, unanticipated prior to the filing of the motion, which require that additional time be allowed.

Dated this 15th day of June, 2020.

BY THE COURT:

s/Michael D. Nelson
United States Magistrate Judge